

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Criminal Case Number 05-20044
Honorable David M. Lawson

v.

NATHAN ZAIN OMAR,

Defendant.

/

ORDER DENYING MOTION FOR PRESERVATION OF RIGHTS

The matter is before the Court on the defendant's motion for preservation of rights. The defendant asks the Court to retroactively apply the Fair Sentencing Act's reduced crack cocaine-to-powder cocaine sentencing ratio. The defendant pleaded guilty to possession of 50 grams or more of cocaine base with the intent to distribute and possession of a firearm in furtherance of a drug trafficking crime and was sentenced on November 30, 2006 to 151 months imprisonment for the drug conviction and 60 months for the firearm conviction, to be served consecutively. On October 15, 2009, the Court, on the defendant's motion to reduce sentence pursuant to 18 U.S.C. § 3582(c)(2), reduced the defendant's sentence for possession of cocaine base with intent to distribute to 131 months imprisonment.

The Sixth Circuit has held that the Fair Sentencing Act does not apply retroactively to a defendant who already had been sentenced when it took effect. *United States v. Carradine*, 621 F.3d 575, 580 (6th Cir. 2010). Therefore, the Court must deny the defendant's motion.

Accordingly, it is **ORDERED** that the defendant's motion for preservation of rights [dkt. #68] is **DENIED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: August 8, 2011

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on August 8, 2011.

s/Deborah R. Tofil
DEBORAH R. TOFIL